

From: Elections Internet Elections@sos.texas.gov 
Subject: MASS EMAIL (CC/EA/VR - 883) -- Secretary Whitley Issues Advisory On Voter Registration List Maintenance Activity
Date: January 25, 2019 at 5:57 PM
To: Elections Internet Elections@sos.texas.gov

El

EXTERNAL EMAIL ALERT! Think Before You Click!

Dear Election Officials:

As you may know, earlier we issued [Advisory 2019-02 - Use of Non-U.S. Citizen Data obtained from the Department of Public Safety](#). In addition to this advisory, the Secretary of State has issued the news release below.

If you receive any requests for the data we are sending you, please contact your county attorney to seek guidance from the Office of the Attorney General on what information is producible under a public information request with respect to this data.

Please let us know if you have any questions or concerns.

Thank you,

Keith Ingram

Director, Elections Division

Office of the Secretary of State

800-252-VOTE(8683)

www.sos.state.tx.us/elections/index.shtml

For Voter Related Information, please visit:



The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved

Having trouble viewing this email? [View it as a Web page](#).

Texas Secretary of State



David Whitley

FOR IMMEDIATE RELEASE

January 25, 2019

Contact: Sam Taylor

STaylor@sos.texas.gov

512-463-6116

Secretary Whitley Issues Advisory On Voter Registration List Maintenance Activity

"Integrity and efficiency of elections in Texas require accuracy of our state's voter rolls"

AUSTIN, TX – Texas Secretary of State David Whitley today issued an [advisory to county voter registrars](#) regarding voter registration list maintenance activities, which include identifying any non-U.S. citizens registered to vote in the State of Texas. For the past year, the Texas Secretary of State's office has worked closely with the Texas Department of Public Safety (DPS) to evaluate information regarding persons identified to not be citizens of the United States. This voter registration list maintenance activity is being conducted in accordance with federal and state law to ensure that only qualified voters - [who must first and foremost be U.S. citizens](#) - are registered to vote in Texas elections.

Through this evaluation, the Texas Secretary of State's office discovered that a total of approximately **95,000** individuals identified by DPS as non-U.S. citizens have a matching voter registration record in Texas, approximately **58,000** of whom have voted in one or more Texas elections. Voting in an election in which the person knows he or she is not eligible to vote is a [second-degree felony in the State of Texas](#). Upon receipt of this information, the Texas Secretary of State's office immediately provided the data in its possession to the Texas Attorney General's office, as the Secretary of State has no statutory enforcement authority to investigate or prosecute alleged illegal activity in connection with an election.

Secretary Whitley issued the following statement:

"Integrity and efficiency of elections in Texas require accuracy of our state's voter rolls, and my office is committed to using all available tools under the law to maintain an accurate list of registered voters. Our agency has provided extensive training opportunities to county voter registrars so that they can properly perform list maintenance activities in accordance with federal and state law, which affords every registered voter the chance to submit proof of eligibility. I would like to thank the Department of Public Safety for providing us with this valuable information so that we can continue to guarantee the right to vote for all eligible Texas voters, who should not have their voices muted by those who abuse the system."

Going forward, the Texas Secretary of State's office will use information it obtains from DPS on a monthly basis to cross-reference with Texas' statewide voter registration database and match potential non-U.S. citizens who have registered to vote. Once a voter registration is identified as a match, the Texas Secretary of State's office will notify the county in which the person is registered so that the county voter registrar can take action.

The following combinations of matches between information in DPS-provided data and the statewide voter registration database are used to identify possible non-U.S. citizens registered to vote:

- Last Name, First Name, and Full Social Security Number;
- Last Name, First Name, and DPS-issued Driver License, Personal Identification Card, or Election Identification Certificate Number; or
- Last Name, First Name, Last Four Digits of Social Security Number, and Date of Birth

If a registered voter is identified as a non-U.S. citizen, he or she should receive a [Notice of Examination \(PDF\)](#) from the county voter registrar indicating that his or her registration status is being examined on the grounds that he or she is not a U.S. citizen. The registered voter will then be required to provide proof of citizenship in order to stay registered, which may be done by submitting to the voter registrar a copy of one of the following documents:

- A certified copy of the voter's birth certificate
- United States passport; or
- Certificate of naturalization (Citizenship certificate)

If the person responds indicating he or she is not a U.S. citizen, or fails to respond to the Notice within 30 days, then the voter registration will be cancelled by the county voter registrar. County voter registrars have been provided with numerous training opportunities to ensure that list maintenance activities are conducted in accordance with state and federal law so as to not affect eligible voters.

Texas voters who wish to check their registration status can visit the Texas Secretary of State's ["Am I](#)

[Registered?" tool online or contact the voter registrar in their county of registration.](#)

###

Please DO NOT REPLY to this message. It comes from an un-monitored mailbox. If you have any questions regarding this announcement or wish to unsubscribe, please e-mail Sam Taylor at

STaylor@sos.texas.gov

Stay Connected with Texas Secretary of State:



SUBSCRIBER SERVICES:

[Manage Subscriptions](#) | [Unsubscribe All](#) | [Help](#)

This email was sent to cadkins@sos.texas.gov using GovDelivery Communications Cloud on behalf of: Texas Secretary of State · 707 17th St, Suite 4000 · Denver, CO 80202



EXTERNAL EMAIL ALERT! Think Before You Click!

Dear Voter Registrars/Election Administrators-

On Friday, we issued [Advisory No. 2019-02](#) related to your requirement to conduct list maintenance activities. As you know, list maintenance activities are an ongoing process, and we thank you for your collaboration and feedback thus far. The data we provide to you is the starting point, and your data matches should be reviewed before you send out any Notices of Examination. Many of you have begun working through the lists to determine whether or not you should issue a Notice of Examination to registered voters who were matched to the data requested from DPS. We are working with DPS as part of our ongoing collaboration between the state and the counties to provide additional information to assist you in making your determinations. After speaking to a number of counties, we wanted to share some of the tools and resources that we have found counties are using to help identify potential matches that will not have a Notice of Examination issued.

1. **Review your application files:** Look at the sources you have for the current or previous applications (if available). Any application electronically transmitted from DPS should indicate citizenship was verified by DPS at the time the voter registration application was submitted. Some county voter registrars or VDRs participate in naturalization ceremonies and maintain lists of naturalized citizens or can identify which applications were completed at a naturalization ceremony. Additionally, a voter may have previously been issued a Notice of Examination for citizenship and provided such documentation. If you have that documentation on file, you would not need to issue a new Notice of Examination.
2. **Look to other entities that may have verified citizenship.** As a reminder, under Section 16.033, Texas Election Code, the voter registrar has the right to use any lawful means to investigate whether a registered voter is currently eligible for registration in the county. There are other governmental entities in or around your county that may have verified citizenship. Several counties have informed us that they are reaching out to local immigration offices to determine whether or not they can obtain lists from these sources.

Please note a person may provide proof of citizenship by personal delivery, mail, fax or scanned attachment sent via email.

In addition, several counties have contacted us about receiving public information requests pertaining to Advisory 2019-02 and the data that our office has provided to counties in connection with that advisory. It is our understanding that the Office of the Attorney General ("OAG") believes information related to the advisory, including data provided to the counties by our office and the counties' correspondence with voters, may constitute law enforcement information excepted from disclosure under the Public Information Act (Texas Government Code § 552.108). Information sought in the requests may relate to pending or reasonably anticipated litigation involving the advisory (Texas Government Code § 552.103). If you receive a public information request, please contact your county attorney to request a ruling from the OAG's Open Records Division and to notify any appropriate third parties (including the OAG's Public Information Coordinator at publicrecords@oag.texas.gov) so that these parties may submit their own arguments regarding disclosure to protect the privacy of those involved. For additional questions related to public information requests, please contact the Open Government Section of

Related to public information requests, please contact the Open Government Section of the OAG at [\(512\) 478-6736](tel:(512)478-6736) or Toll Free: [\(877\) 673-6839](tel:(877)673-6839).

Our goal in this process is two-fold: (1) Maintain accurate voter registration rolls by conducting routine list maintenance activities as required by federal law, and (2) Ensure that eligible voters maintain their registration. It is our goal to provide you with the tools necessary to meet both of these goals. The feedback we are getting from you regarding your data is vital to this process. Like many other election and voter registration activities, we are working together on this. We thank you for your feedback and continue to welcome any further feedback so that we can work together to ensure an effective and efficient process of maintaining an accurate list of registered voters going forward.

Keith Ingram

Director, Elections Division

Office of the Secretary of State

800-252-VOTE(8683)

www.sos.state.tx.us/elections/index.shtml

For Voter Related Information, please visit:



The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

EXTERNAL EMAIL ALERT! Think Before You Click!

Hello everyone,

Over the last two weeks, we have continued to receive feedback from you on [Advisory 2019-02](#). Based on this feedback, we'd like to offer the following additional guidance:

1. **Weak matches don't require you send a Notice of Examination**: As we stated in the Advisory, for this matching program, we used our STRONGEST matching criteria (First Name, Last Name full 9 of SSN; First Name, Last Name, Full DL number; First Name, Last Name, Last 4 or SSN and DOB), but we have instructed you to treat them like WEAK matches. As you know, by treating it like a weak match, you do NOT automatically take action on it. For weak matches, you have the authority to use any lawful means necessary to investigate. After you have investigated, if you do not feel confident sending the Notice of Examination to the voter in question you are not required to take action on it.
2. **Compare dates of registration to dates of last DPS transaction**: If a registered voter in your county has an Effective Date of Registration (EDR) BEFORE the date of the voter's last (most recent) transaction with DPS during which the individual indicated that he or she is not a U.S. citizen and provided proof of lawful presence, we recommend you prioritize those matches for sending notices of examination.
3. **Reinstatement Process**: If you choose to send out a Notice of Examination and a voter is subsequently cancelled for a failure to respond to the notice, that voter's registration will be cancelled. If the voter later appears and provides proof of citizenship, these voters **MUST** be reinstated. Reinstatement of registration takes effect immediately.
4. **Clerical Errors on Application Processing**: A number of counties have informed us that they are discovering their own errors in processing applications. Specifically, a voter submitted a voter registration application, marked "no" on the US Citizenship question, but the county mistakenly registered that voter. For these voters, you do **NOT** have the authority to cancel them. Despite the fact the error was made when the application was submitted, these are now registered voters and have the rights associated with being a registered voter. You would need to send the Notice of Examination to these voters to allow them the opportunity to respond and provide proof of citizenship. If they do not respond, you would cancel for failure to respond.
5. **Allowable Documentation**: We've had a number of questions about the allowable documentation. Below are the issues we've been asked for guidance on:
 - a. **Submission of documents**: Under 1.007 of the Texas Election Code, proof of citizenship can be provided via personal delivery, mail, fax or [email](#).
 - b. **Types of documents**: Per 16.0332 of the Texas Election Code, a voter must respond to any Notice of Examination sent out for this purpose by providing a certified copy of a vote's birth certificate, US passport or passport card, or citizenship papers or any other form prescribed by the Secretary of State. A **copy** of any of the above mentioned documents is sufficient to provide proof of citizenship.

6. **Voter requests for individual data:** A number of counties have told us that voters are proactively reaching out to the counties to inquire as to whether or not they have been identified by DPS as a noncitizen because they want to proactively provide proof of citizenship, if necessary. If you are able to verify that the inquiring registered voter has indeed been identified as a noncitizen, you may confirm that fact to the registered voter and advise the voter that he or she has the option of:
 - a. Responding to a Notice of Examination letter affirming his or her US citizenship; or
 - b. Providing proof of US citizenship to the voter registrar in person or by mail, fax or email

Once the individual's citizenship has been verified by your office, you should mark the task 'RESOLVED' and no further action will be required.

Thank you very much for your work on this project as well as the other daily voter registration work that you do so well. We are determined to be your partners in this work. If there is anything that we can do or that you think we should know, please feel free to contact us directly.

Keith Ingram
Director, Elections Division
Office of the Secretary of State
800-252-VOTE(8683)

www.sos.state.tx.us/elections/index.shtml

For Voter Related Information, please visit:



The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: Elections Internet Elections@sos.texas.gov 
Subject: Mass Email -- (EA/VR) -- Update Regarding Advisory 2019-02
Date: February 22, 2019 at 4:09 PM
To:

El

EXTERNAL EMAIL ALERT! Think Before You Click!

Hello Everyone,

This email is to update you on the progress of the data set regarding the DPS non-citizen matches. We would like to thank you for your feedback and consultation as we ensure that we can continue to provide you with the best possible data set we can ascertain at the state level. We have met with DPS several times and they have given us a list that omits any individuals that DPS data shows is a U.S. citizen.

We are prepared to immediately close the tasks as resolved for those individuals on your dashboard for which you do not need to take any further action. We are in the process of closing those tasks, and they should all be closed by Monday. If you have already sent a notice of examination to those individuals, you should send a letter notifying the voter that you are no longer investigating the voter and they do not need to respond to the notice. If the voter does not respond to the notice, the voter will remain registered and no further action needs to be taken.

If you wish to receive a new data set, please let us know and it will be provided to you.

Please let us know if you have any questions.

Keith Ingram
Director, Elections Division
Office of the Secretary of State
800-252-VOTE(8683)

www.sos.state.tx.us/elections/index.shtml

For Voter Related Information, please visit:



The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: Elections Internet Elections@sos.texas.gov 
Subject: Mass Email--VR/EA--Advisory 2019-03 - Court Orders in Pending Litigation
Date: March 4, 2019 at 1:05 PM
To: Elections Internet Elections@sos.texas.gov

El

EXTERNAL EMAIL ALERT! Think Before You Click!

ELECTION ADVISORY
NO. 2019-03

TO: Voter Registrars/Elections Administrators

FROM: Keith Ingram, Director of Elections

DATE: March 4, 2019

RE: Court orders in pending litigation involving non-citizen list maintenance process

We are writing to advise you of developments on the recently initiated non-citizen list maintenance process. As you know, lawsuits challenging this process were filed in federal courts in San Antonio, Corpus Christi, and Galveston over the last month. These lawsuits were recently consolidated into one case before Judge Fred Biery in the Western District of Texas, San Antonio Division.

On February 27 and February 28, the district court entered the attached preliminary orders. The district court noted the “unanimity among the parties, counsel and the Court that non-American citizens are ineligible to vote.” And the district court acknowledged that the non-citizen list maintenance process was performed in good faith to carry out statutory list maintenance duties. At the same time, counties should pause their efforts on this list maintenance process as they continue to review the now-refined data generated from the DPS database.

In this case, and in previous cases involving voter roll maintenance, the Secretary of State has maintained that he lacks the power to order counties to update their voter rolls. However, pursuant to the district court’s February 27 order, the Secretary of State advises all counties “not to send any notice of examination letters nor remove voters from registration without prior approval of the Court with a conclusive showing that the person is ineligible to vote.” I am alerting you that the district court ordered that, in relation to the list at issue in Election Advisory No. 2019-02, local officials are “not to remove any person from the current voter registration list until authorized by this Court.” These provisions of the district court’s order do “not prohibit the removal of any person based upon information independent of Advisory 2019-02, such as death, relocation or felony conviction,” or the removal of any persons who are excused or disqualified from jury service because of non-citizen status or persons who request to be removed from the rolls because of their lack of citizenship.

Additionally, to the extent that the Secretary of State provides subsequent lists of potential non-citizen matches on a monthly basis, this office advises all counties “not to send notice of examination letters nor remove voters from registration without prior approval of the Court,” as indicated in the district court’s February 27 order. Again, this “does not prohibit the removal of any person based upon information independent of Advisory 2019-02, such as death, relocation or felony conviction,” or the removal of any persons who are excused or disqualified from jury service because of non-citizen status or persons who request to be removed from the rolls because of their lack of citizenship.

Please also note that the district court’s order allows local officials to “continue to find out if in fact someone is registered who is not a citizen, so long as it is done without communicating directly with any particular individual on the list.” Pursuant to the district

court's order, if voters "initiate the contact with a county elections administrator," you may communicate directly with these individuals.

As we learn more, we will update you.

Sincerely,

Keith Ingram

Director, Elections Division

Office of the Secretary of State

800-252-VOTE(8683)

www.sos.state.tx.us/elections/index.shtml

For Voter Related Information, please visit:



The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.



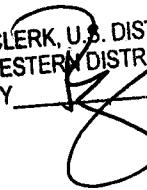
Order
2.27.19.pdf



Order
2.28.19.pdf

FILED

FEB 27 2019

CLERK, U.S. DISTRICT CLERK
WESTERN DISTRICT OF TEXAS
BY  DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

TEXAS LEAGUE OF UNITED LATIN AMERICAN CITIZENS, ET AL.,)
)
Plaintiffs,)
)
V.)
)
DAVID WHITLEY, in his Official Capacity as Secretary of State for the State of Texas; ET AL.,)
)
Defendants.)
)

CIVIL ACTION NO. SA-19-CA-074-FB

ORDER

Before the Court are a number of preliminary issues related to protecting the integrity of the election process and ensuring the Equal Protection of the laws for all Texans. There is unanimity among the parties, counsel and the Court that non-American citizens are ineligible to vote.

The evidence has shown in a hearing before this Court that there is no widespread voter fraud. The challenge is how to ferret the infinitesimal needles out of the haystack of 15 million Texas voters. The Secretary of State through his dedicated employees, beginning in February 2018, made a good faith effort to transition from a passive process of finding ineligible voters through the jury selection system in each county to a proactive process using tens of thousands of Department of Public Safety driver license records matched with voter registration records. Notwithstanding good intentions, the road to a solution was inherently paved with flawed results, meaning perfectly legal naturalized Americans were burdened with what the Court finds to be ham-handed and threatening correspondence from the state which did not politely ask for information but rather exemplifies the power of government to strike fear and anxiety and to intimidate the least powerful among us.¹ See Attachment A (TX-LULAC

¹*Boustani v. Blackwell*, 460 F. Supp. 2d 822, 827 (N.D. Ohio 2006) (Boyko, J.) ("This Court has personally presided over numerous naturalization ceremonies and has witnessed firsthand the joy of these new Americans and their intense desire to participate in this nation's democratic process. There is no such thing as a second-class citizen

Exhibit 4). No native born Americans were subjected to such treatment. *See U.S. CONST. amend XIV, § 1 (“[N]or shall any State . . . deny to any person within its jurisdiction the equal protection of the laws.”).* Out of 98,000 new American voters on the list, thus far approximately 80 have been identified as being ineligible to vote.² Almost immediately upon sending the list, the government had an “oops” moment, realizing that 25,000 names should not have been included. It appears this is a solution looking for a problem. Indeed, Secretary of State Whitley has accepted responsibility and apologized for the failure to seek confirmation of the accuracy, appropriateness, competency and due diligence of the process before the rollout. Though promising more transparency, the Secretary has resisted plaintiffs’ legal concerns as opposed to entering into an agreed solution precluding further fear and intimidation. *See Attachment B (TX-LULAC Exhibit 54); see also United States v. Florida, 870 F. Supp. 2d 1346, 1347, 1348 (N.D. Fla. 2012) (Hinkle, J.)* (explaining that Florida election officials identified only “a small number” of ineligible voters from Secretary of State’s list of “180,000 registered voters who he said might be noncitizens”).³ The Florida program, similar in nature to Texas, was ultimately abandoned by the state. *Florida, 870 F. Supp. 2d at 1350-51.* Here, for the local officials responsible for implementing the program, it was not a Henry David Thoreau moment

or a second-class American. Frankly, without naturalized citizens, there would be no America. It is shameful to imagine that this statute is an example of how the State of Ohio says thank you to those who helped build this country.”). I concur. (Biery, J.).

²The Bard might say this is much ado about nothing. WILLIAM SHAKESPEARE, MUCH ADO ABOUT NOTHING, act 3, sc.1. On the other hand, for the people who perceive discriminatory impact, it is much ado about their constitutionally protected rights.

³As plaintiffs’ counsel stated at the preliminary injunction hearing, “[o]n the Florida case, . . . they started at 180,000 identified voters in that state, and by the time they went through all the sifting, they ended up with 85” people who were ineligible to vote. (Docket no. 57, at page 52, lines 12-20); *see also Editor’s Note on Nov. 12, 2018 to Story Published in May 2012, <https://www.nbciami.com/news/local>* (last visited Feb. 26, 2019) (explaining that Florida election documents show that initial list of 180,000 names was whittled to only 85 ineligible voters).

(“Simplify, simplify.”).⁴ Rather, the Court heard compelling evidence concerning confusing and contradictory communications from the Secretary of State.

While the Court awaits proposed findings of fact and conclusions of law regarding the preliminary injunction issues, the Court is prepared to address some issues.

Defendants Whitley and Paxton have moved to dismiss, alleging the Court has no jurisdiction and plaintiffs have failed to state a claim. To the extent defendants rely upon state statutes in support of the jurisdictional motion, the Court holds that the United States Constitution trumps state law in appropriate circumstances, this being one. Moreover, given the highly credible evidence presented by plaintiffs, the Court finds overwhelmingly that claims for relief have been properly stated. Accordingly, defendants’ motion to dismiss (docket no. 20) is DENIED.

Plaintiffs have also sued Attorney General Paxton, whose only involvement shown thus far is a press release, which the Court finds arguably vituperative in tone but nevertheless states the Attorney General’s authority and, therefore, without further proof is within his First Amendment right to free speech. *See Attachment C (TX-LULAC Exhibit 3)*. Clearly, this statement is not yelling fire in a crowded theater and therefore not subject to being censured.⁵ While the Court would prefer that political rhetoric be neutralized to more civil discourse, Article III of the Constitution bestows no power on the federal judiciary to make wishes come true. Accordingly, plaintiffs’ request for relief regarding the press release is DENIED.

The Court awaits final advice from the individual counties which are parties concerning whether they will agree to pause the process, particularly not sending any notice of examination letters without

⁴HENRY D. THOREAU, WALDEN 91 (J. Lyndon Shanley ed., Princeton Univ. Press 1971) (1854).

⁵As Justice Oliver Wendell Holmes, Jr. stated in *Schenck v. United States*, 249 U.S. 47, 52 (1919): “The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic.”

prior approval of the Court. Local officials can continue to find out if in fact someone is registered who is not a citizen, so long as it is done without communicating directly with any particular individual on the list. In addition, local officials are ORDERED not to remove any person from the current voter registration list until authorized by this Court. As to the first rollout of 98,000, the Secretary of State is ORDERED to tell other counties which are not parties to this litigation, or party counties which will not agree to a pause, not to send any notice of examination letters nor remove voters from registration without prior approval of the Court with a conclusive showing that the person is ineligible to vote.

With reference to the new lists being prepared based on contemporaneous applications for driver licenses and applications to register to vote, the Secretary of State may proceed with the monthly rollouts. However, the Secretary of State is affirmatively ORDERED to advise and direct local voting officials not to send notice of examination letters nor remove voters from registration without prior approval of the Court.

The Court further finds and concludes the Secretary of State, though perhaps unintentionally, created this mess. As Robert Fulghum taught in *All I Really Need to Know I Learned in Kindergarten*, “always put things back where we found them and clean[] up our own messes.” ROBERT FULGHUM, ALL I REALLY NEED TO KNOW I LEARNED IN KINDERGARTEN: UNCOMMON THOUGHTS ON COMMON THINGS (Villard Books 1986).

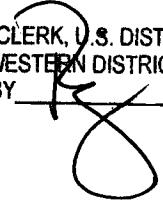
IT IS SO ORDERED.

SIGNED this 27th day of February, 2019.


FRED BIERY
UNITED STATES DISTRICT JUDGE

FILED

FEB 28 2019

CLERK, U.S. DISTRICT CLERK
WESTERN DISTRICT OF TEXAS
BY  DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

TEXAS LEAGUE OF UNITED LATIN AMERICAN CITIZENS, ET AL.,)
Plaintiffs,)
V.)
DAVID WHITLEY, in his Official Capacity)
as Secretary of State for the State of Texas;)
ET AL.,)
Defendants.)

CIVIL ACTION NO. SA-19-CA-074-FB

ORDER REGARDING JOINT ADVISORY FROM COUNTY DEFENDANTS

The county defendants seek clarification of the Order (docket no. 61) issued on February 27, 2018. (Docket no. 62). As noted in the advisory, “all Texas counties routinely receive information from a variety of sources (including the Secretary of State) regarding voters who are deceased, have moved to another county or state, are convicted of a felony, or are not citizens.” *Id.* at page 2. The county defendants inquire whether “the Court’s Order to not remove any voter based on information received from Advisory 2019-02 . . . is broad enough to prohibit the removal of ‘any person from the current voter registration list until authorized by this Court,’ for any reason, based upon information independent of Advisory 2019-02.” *Id.* The Court’s Order is limited to the removal of any person from the current voter registration list based on non-citizenship and does not prohibit the removal of any person based upon information independent of Advisory 2019-02, such as death, relocation or felony conviction.

The county defendants also advise “the Court that they may be unable to avoid communicating directly ‘with any particular individual on the list’ should those voters initiate the contact with a county

elections administrator. However, the county defendants advise the Court that they will not initiate such contact.” *Id.* This is acceptable to the Court.

The advisory also brings to the Court’s attention that the *Garibay* plaintiffs’ motion for leave to file a second amended complaint, which seeks to add as defendants Angelina County, Bandera County, Blanco County, Bosque County, Brazos County, Gregg County, Kerr County, Victoria County and Willacy County, is pending. It is due to an administrative oversight that these counties are not properly before the Court at this time. Accordingly, an order granting the motion shall be issued simultaneously with this response to the joint advisory.

It is so ORDERED.

SIGNED this 28⁼ day of February, 2019.



FRED BIERY
UNITED STATES DISTRICT JUDGE

From: Elections Internet Elections@sos.texas.gov 
Subject: MASS EMAIL (EA/VR) -- Notice To Counties Regarding Test Data In TEAM
Date: March 11, 2019 at 5:31 PM
To: Elections Internet Elections@sos.texas.gov

El

EXTERNAL EMAIL ALERT! Think Before You Click!

Dear County Officials,

We would like to inform you that your office may have received some list maintenance files this morning in error. These files should not have been sent to your county. Working through our vendor, we were in the process of running data in our test environment; however, due to a technical error, it inadvertently got pushed out into production.

For online counties, the dashboard activities related to these files were immediately removed. For offline counties receiving a voter export file, we ask that you completely disregard the file. Please do not move forward in working with that data at this time.

If you have any additional questions, please do not hesitate to contact our office at (512)262-8683 or at Elections@sos.texas.gov.

Keith Ingram
Director, Elections Division
Office of the Secretary of State
800-252-VOTE(8683)
www.sos.state.tx.us/elections/index.shtml

For Voter Related Information, please visit:



The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

From: Elections Internet Elections@sos.texas.gov 
Subject: MASS EMAIL (CC/EA/VR - 881) -- Secretary Whitley Announces Settlement In Litigation On Voter Registration List Maintenance Activity
Date: April 26, 2019 at 4:50 PM
To: Elections Internet Elections@sos.texas.gov

El

EXTERNAL EMAIL ALERT! Think Before You Click!

Dear County Election Officials and Voter Registrars,

Please see the [news advisory](#) below regarding the settlement of the litigation on list maintenance activities. Please be advised that we will be sending out more details and instructions to you regarding the new process going forward.

Thank you,

Keith Ingram
Director, Elections Division
Office of the Secretary of State
800-252-VOTE(8683)

www.sos.state.tx.us/elections/index.shtml

For Voter Related Information, please visit:



The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

Having trouble viewing this email? [View it as a Web page](#).

Texas Secretary of State



David Whitley

FOR IMMEDIATE RELEASE
April 26, 2019

Contact: Sam Taylor
STaylor@sos.texas.gov
512-463-6116

Secretary Whitley Announces Settlement In Litigation On Voter Registration List Maintenance Activity

Plaintiffs agree to dismiss all claims against the Texas Secretary of State

AUSTIN, TX – Today, the parties to *LULAC v. Whitley* (and consolidated cases) agreed to a settlement in

the litigation regarding the Texas Secretary of State's [voter registration list maintenance activity announced on January 25, 2019](#) to identify and remove non-U.S. citizens registered to vote in Texas. All parties agreed to a mutually acceptable process by which the Texas Secretary of State's office can continue to conduct voter registration list maintenance required under both state and federal law while eliminating the impact of any list maintenance on eligible Texas voters. The plaintiffs agreed to dismiss all of their claims and the Texas Secretary of State's office agreed to issue a new advisory notifying Texas counties on the revised process for identifying and removing non-U.S. citizens from the state's voter rolls.

Secretary Whitley issued the following statement regarding the settlement agreement:

"I want to thank the Texas Legislature, county election officials from across the state, and the parties in this litigation for working with our office to develop a sustainable non-citizen list maintenance process. From the beginning, this process was designed to be collaborative, and today's agreement reflects a constructive collaboration among all stakeholders. It is of paramount importance that Texas voters can have confidence in the integrity, accuracy, and efficiency of the electoral system in which they participate. Today's agreement accomplishes our office's goal of maintaining an accurate list of qualified registered voters while eliminating the impact of any list maintenance activity on naturalized U.S. citizens. I will continue to work with all stakeholders in the election community to ensure this process is conducted in a manner that holds my office accountable and protects the voting rights of eligible Texans."

As part of the settlement, the parties agreed to a revised list maintenance process for the Texas Secretary of State's office to utilize in matching Texas Department of Public Safety (DPS) data regarding potential non-U.S. citizens with Texas' voter registration database. The parties agreed that, going forward, the Texas Secretary of State's office will send to county voter registrars only the matching records of individuals who registered to vote before identifying themselves as non-U.S. citizens to DPS when applying for a driver license or personal identification card. This will ensure that naturalized U.S. citizens who lawfully registered to vote are not impacted by this voter registration list maintenance process.

###

Please DO NOT REPLY to this message. It comes from an un-monitored mailbox. If you have any questions regarding this announcement or wish to unsubscribe, please e-mail Sam Taylor at
STaylor@sos.texas.gov

Stay Connected with Texas Secretary of State:



SUBSCRIBER SERVICES:

[Manage Subscriptions](#) | [Unsubscribe All](#) | [Help](#)

From: Elections Internet Elections@sos.texas.gov 
Subject: MASS EMAIL--VR/EA--Settlement update
Date: May 3, 2019 at 9:51 AM
To: Elections Internet Elections@sos.texas.gov

El

EXTERNAL EMAIL ALERT! Think Before You Click!

Dear Voter Registrars and Elections Administrators,

As we alerted you last Friday, the parties reached a settlement of the three federal lawsuits challenging the list maintenance activity announced in Election Advisory 2019-02. The district court entered an order dismissing all three cases on Monday, April 29, 2019.

As part of the settlement, the Secretary of State's office has rescinded Election Advisory 2019-02. We advise you to take no further action on any data files that our office sent you in connection with Election Advisory 2019-02. For online counties and offline counties using the dashboard, we have closed all tasks related to these data files. We urge other offline counties to close all tasks associated with any data files that we sent you for this list maintenance activity.

In addition, if you sent any voter a notice of examination as a result of Election Advisory 2019-02, please send that voter a new letter advising them that they are still registered to vote and that their voter registration status is no longer in question. You do not need to send this additional notice if the individual has contacted your office and asked to be removed from the voter rolls or if there is some other basis for investigating the eligibility of the voter. We understand that some counties have already sent additional notices to certain voters; however, if you have not done so and have questions about the appropriate language to use in these notices, please contact our office before issuing notices to any voters.

Consistent with the parties' settlement, we anticipate issuing a new advisory related to the agreed-upon and revised list maintenance process in the coming weeks.

Thank you for your assistance in these matters and for all of your hard work going into the May elections. If you have any questions regarding this e-mail, please give us a call.

Keith Ingram
Director, Elections Division
Office of the Secretary of State
800-252-VOTE(8683)
www.sos.state.tx.us/elections/index.shtml
For Voter Related Information, please visit:



The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as personal legal advice to you for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.